

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DEANN GRAHAM,

Plaintiff,

v.

CITY OF ELKHART, et al.,

Defendants.

Case No. 3:21-CV-495 JD

OPINION AND ORDER

Plaintiff DeAnn Graham, proceeding *pro se*, sued the Elkhart Police Department, City of Elkhart, and Prosecutor Vicki Becker. On December 2, 2021, the Court granted Defendant Elkhart Police Department's motion to dismiss; granted in part Defendant City of Elkhart's motion to dismiss and dismissed all federal claims against the City of Elkhart; granted Defendant Becker's motion for a more definite statement; and dismissed without prejudice Ms. Graham's claims on behalf of her daughters. Among other things, the Court noted that Ms. Graham's state law claims remained pending. Finally, the Court granted Ms. Graham until January 7, 2022, to file a more definite statement addressing any claims against Ms. Becker and cautioned her that "if she does not respond by the deadline, the Court will dismiss her federal claims with prejudice and without further notice and relinquish jurisdiction over her state law claims." (DE 19 at 10–11.)

On December 29, 2021, although no final judgment had been entered, Ms. Graham filed a notice of appeal. Along with her notice, she filed a petition to proceed in forma pauperis on appeal. The Court denied the petition because the interlocutory appeal was not taken in good faith. (DE 25.) In the Order, the Court pointed out that Ms. Graham had a January 7 deadline for filing a more definite statement.

Although Ms. Graham filed a notice of appeal, this case has not been stayed because neither this Court nor the Court of Appeals has so ordered. *See* 28 U.S.C. § 1292 (“...The Court of Appeals which would have jurisdiction of an [interlocutory appeal] may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however,* That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.”).

Yet, to date, Ms. Graham has neither filed a more definite statement nor asked for an extension of time to do so. Being a pro se litigant does not excuse Ms. Graham from ignoring the Court’s orders. *See Members v. Paige*, 140 F.3d 699, 702 (7th Cir. 1998) (“[procedural] rules apply to uncounseled litigants”); *Downs v. Westphal*, 78 F.3d 1252, 1257 (7th Cir. 1996)(“[P]ro se litigants are not entitled to a general dispensation from the rules of procedure”). This is especially true, because Ms. Graham is an experienced pro se litigant in this district, currently litigating five cases:

- Graham v. City of Elkhart, et al., 3:21-cv-495-JD-MGG
- Graham v. Herron Management Property, et al., 3:21-cv-530-JD-MGG
- Graham v. C-PAR Property Management, 3:21-cv-749-RLM-MGG
- Graham v. Irish Realty, 3:21-cv-750-JD-MGG
- Graham v. Payne, 3:21-cv-888-DRL-MGG.

In addition, Ms. Graham has litigated five other cases before this Court since 2005 without representation:

- 3:05-cv-329-RLM-CAN Graham v. Oaklawn Psychiatric Center, Inc.
- 3:15-cv-116-JTM-CAN Graham v. Professional Transportation, Inc.

- 3:15-cv-248-PPS-CAN Graham v. Norfolk Southern Railway
- 3:17-cv-205-JD-MGG Graham v. IU Health Goshen
- 3:19-cv-386-DRL-MGG Graham v. Coca-Cola Consolidated

Accordingly, consistent with its previous warning and for the reasons stated in its December 2, 2021, Order, the Court will dismiss Ms. Graham’s federal claims against Prosecutor Vicki Becker. Next, in the absence of a federal claim, the Court relinquishes jurisdiction over any state law claims. *See Doe-2 v. McLean County Unit Dist. No. 5 Bd. of Dirs.*, 593 F.3d 507, 513 (7th Cir. 2010) (“Ordinarily, when a district court dismisses the federal claim conferring original jurisdiction before trial, it relinquishes supplemental jurisdiction over any state-law claims under 28 U.S.C. § 1367(c)(3).”). The court will dismiss any state law claims without prejudice should Ms. Graham wish to pursue them in state court. This Court offers no opinion about the wisdom of pursuing this course of action or the merit of any potential claim she may have.

For these reasons, the Court:

- DISMISSES Ms. Graham’s federal claims against Prosecutor Vicki Becker; and
- DISMISSES WITHOUT PREJUDICE Ms. Graham’s state law claims.

SO ORDERED.

ENTERED: January 24, 2022

/s/ JON E. DEGUILIO
Chief Judge
United States District Court